

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 24, 5, 2002

O.A. No. 227/2002.

Prahlad Kumar Saini son of Sn. Gulab Chand Saini, aged about 43 years, Senior Goods Guard Head Office, Jaipur, resident of N.B.C. Road, Hasanpura-A, opposite Kasana Clinic, Jaipur-6.

... APPLICANT.

v e r s u s

1. Union of India, through the General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, Western Railway, Power House Road, Jaipur.

... RESPONDENTS.

Shri Kunwar Bahadur counsel for the applicant.

CORAM

Hon'ble Mr. M. P. Singh, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Shri Prahlad Kumar Saini has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, for seeking a direction to quash and set aside the selection panel, for the post of Passenger Guard, dated 22.02.2002 (Annexure A-2) and he further prayed that his case may also be considered for the selection on the said post and the proper procedure may be adopted by the respondents for the same.

2. The case of the applicant is that a



notification dated 04.12.2001 was issued for organising a selection for preparing the panel for the promotion to the post of Passenger Guard. The number of vacancies were 15 and none was for the reserved category. A selection was to be conducted on the basis of an oral examination. Two lists were issued namely list A and list B. The applicant's name appeared at list A at Sr. No. 17.

3. The selection was held on 26.12.2001 in respect of the candidates from Sr. No. 1 to 20 and on 28.12.2001 in respect of the candidates at Sr. No. 21 to 25. The applicant appeared in the selection. However, his name does not find in the provisional selection panel dated 20.02.2002 (Annexure A-8). It has been said that the selection held for the said post was in accordance to the Para 219 of IREM 1989. It has further been averred by the applicant that there has been nothing adverse inasmuch as no adverse ACR has ever been indicated to him. He has also been working as passenger and mail express guard in higher grades and there was no lapses notices against him. Further he has also not undergone the professional refresher course training held at Zonal Training Centre, Udaipur, where he stood first. Despite this, his name has not been included in the panel of selected candidates. On the other hand, one Shri Rama Nujendra Prasad Chouhan who has failed in the Refresher Training

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Course finds place in the panel. The action of the respondents is arbitrary inasmuch as a meritorious candidate i.e. the applicant has been dropped. A number of juniors to the applicant have been placed to the panel. The examination was for the post of Passenger Guard was held on the basis of an oral examination and is arbitrary and unreasonable. Oral interview/test cannot be regarded very satisfactory test for assessing and evaluating the capacity and calibre of candidates as it is subjective.

4. A number of grounds have been taken in the Original Application. The main ground is that the candidates who have failed in the Refresher Training Courses have been placed in a panel while the applicant who topped in the course has been rejected. The junior candidates have been given more weightage than him. Hence this application.

5. We have heard the learned counsel for the applicant and perused the record of the case.

6. The applicant has reiterated the facts and grounds mentioned in the Original Application. The applicant has argued that the selection for the post of Passenger Guard was oral and the same is not fair. The mere perusal of the Rule 219 of IREM 1989 would reveal that the selection which is conducted as on oral basis, in fact, it is not solely on the

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basis of viva voce. The difference between the normal selection and the selection based on viva voce is that in case of normal selection, the selection consists of written test, viva voce test and the records of service including the seniority. In case of selection which is based on viva voce, only the written test is dispensed with and rest there is no change.

7. In any case the rule regarding selection has, in fact, has been said to be complied with, as indicated in Para 3 of Page 4 in the OA itself, which is reproduced as under :-

"3. That the procedure adopted by the selection Board in the oral test held on 26.12.2001 and 28.12.2001 was according to the para 219 of Indian Railways Establishment Manual 1989."

8. The other contentions raised by the applicant is that he has passed the Professional Refresher Training Course but has not been placed on panel, whereas, one other candidate has not passed the provisional Refresher Training Course and he has been selected. Passing or failing in Professional Refresher Training Course is not the condition precedent or the requirement for the selection. As a matter of fact, there are promotional courses for the particular post and one is required to be passed those promotional courses. The Refresher Training Courses were routine matter and the rule does not provide for giving any weightage for the marks



obtained in such Refresher Training Course. The applicant could not show as to how, non-inclusion of his name was arbitrary or discriminatory. There is no averment regarding any bias against any of the member of the selection panel. Otherwise also, the selection has not been said to be arbitrary.

9. Seen in all its complexities, the Original Application is without merit and the same is dismissed in limine. No order as to costs.

JKC
(J. K. KAUSHIK)

MEMBER (J).

MPS
(M. P. SINGH)

MEMBER (A)